

# Water Quality Standards Advisory Committee (WQSAC)

## MEETING SUMMARY

Thursday, October 9, 2014 1:30 pm – 3:30 pm

Department of Environmental Services

Rooms 112/113/114

29 Hazen Drive, Concord, NH

### Attendees

Name	Organization
Gary Abbott	Associated General Contractors (AGC) of NH
Bill Arcieri	Vanasse, Hangan, Brustlin, Inc (VHB)
Dan Blais	Home Builders and Remodelers' Association of NH
Ricardo Cantu	City of Manchester
David Cedarholm	Tighe and Bond
Sam Demeritt	NH Wildlife Federation
John Hodsdon	NH Farm Bureau Federation
Mike Metcalf	NH Water Works Association
Eileen Miller	NH Association of Conservation Districts
Allan Palmer	Rivers Management Advisory Committee
Rep Judith Spang	NH Rivers Council
Ellen Weitzler	US EPA

### DES Attendees

Ted Diers

Gregg Comstock

Brandon Kernan

Owen David

Sonya Carlson

**[Hearing on Proposed Rule – Prior to the start of the WQSAC meeting a public hearing was held on the proposed rule Env-Wq 1701.03 regarding Compliance Schedules in NPDES Permits.]**

### 1) Introductions

The meeting began with a round of introductions.

### 2) Approval of 07/10/14 meeting summary

The meeting summary prepared by DES was approved as written.

### 3) Proposed rule regarding compliance schedules for NPDES permits (Env-Wq 1701.03)

Ted Diers lead a discussion of the proposed rule. If a schedule was included in the permit, Alan Palmer asked if the schedule could be revised without modifying the permit. Ellen Weitzler said she would run this by their legal department. Dave Cedarholm asked if the compliance schedule in the permit could go beyond the five year permit term. Ellen Weitzler said that compliance schedules could be longer than the permit term. Dan Blais asked if language could be added to give permittees the option of including the compliance schedule in the permit or in an Administrative Order. Ellen Weitzler said she will check with their legal department.

After some discussion, it was decided to replace the word “initial” in section (a)(2) { i.e., “[a]fter issuance of the initial discharge permit ..”} with “original”.

As suggested at the July 10, 2014 WQSAC meeting, Ted Diers stated that DES will remove “New Hampshire” in Section (b) so it is not limited to New Hampshire standards and is consistent with the intent of Section (a).

At the July 10, 2014 WQSAC meeting there was significant discussion about the statement in (a)(2) that “limitations are based on new, newly interpreted, or revised water quality standards...” In general, the suggestion was made that DES consider additions to the list that reflect new information, newly enforced regulations, and/or changes in analytical accuracy as other aspects. Ellen Weitzler said she would consult with their legal department to see if the existing language is sufficiently broad to encompass the situations given in the suggestion.

#### **4) Status of Upcoming Env-Wq 1700 Rule Change and Impacts on NPDES WWTFs**

Gregg Comstock gave a powerpoint presentation on proposed rulemaking for Env-Wq 1700 and the number of NPDES wastewater treatment facilities (WWTFs) that may be impacted.

The surface water quality regulations (Env-Wq 1700) expire in May 2016. From now through May 2015, DES plans to prepare the initial rulemaking proposal and continue discussions with the WQSAC. In May 2015, DES plans to file notice for rulemaking, hold a public hearing in July 2015 and adopt rules by April 2016.

Revisions proposed at this time include the following:

- Env-Wq 1701.03 - Compliance Schedules in NPDES Permits: A public hearing was held on 10/09/14 with the public comment period ending 10/17/14. It is expected a final proposal will go before the JLCAR in November, 2014.
- Env-Wq 1703.01 – Add Designated Uses per the WQSAC subcommittee proposal accepted by the WQSAC on 01/12/12. These include Swimming and Other Recreation In and On the Water, Fish Consumption, Shellfish Consumption, Aquatic Life Integrity, Wildlife, and Potential Drinking Water Supply After Adequate Treatment.
- Update Toxic Criteria and Footnotes for Aquatic Life (AL) and Human Health (HH) in Table 1703.1:
  - Use the latest approved EPA national recommended criteria;
  - Consider inclusion of draft updated EPA HH criteria (for 94 parameters) if finalized in time for the rulemaking public hearing;
  - The DES Health Risk Assessment Program is reviewing EPA’s proposed criteria, and especially the 0.3 mg/kg methylmercury fish tissue HH criteria; and,
  - Add Chemical Abstract Services (CAS) numbers (unique number assigned by CAS to each chemical).
- Update hardness dependent metal criteria including Env-Wq 1703.22(f) to indicate that hardness dependent criteria are based on actual hardness and not a minimum of 25 mg/L or a maximum of 400 mg/L. In addition, update the factors in Table 1703.2 to convert total recoverable metals to dissolved metals, and the coefficients in Table Env-Wq 1703.3 for calculating the total recoverable aquatic life criteria for metals that are hardness dependent.
- Clarify that aluminum criteria are acid soluble (add a footnote to Env-Wq 1703.22)

- Per EPA, consider revising or deleting Env-Wq 1703.22(l) regarding use of drinking water maximum contaminant levels (MCL) if they are more stringent than HH criteria for Water and Fish Ingestion and including actual MCLs in Table 1703.1.
- Update the freshwater ammonia criteria in Env-Wq 1703.25.
- Make minor revisions to Antidegradation section:
  - Consider removing “uncontaminated geothermal cooling water “ from the list of predetermined insignificant discharges under Env-Wq 1708.09(c)(1). This is because EPA has concerns with dissolved minerals in groundwater and thermal effects which may impact water quality. Ellen Weitzler clarified that they are concerned with cooling water systems with discharges to surface waters and not with closed loop systems.
  - Update Env-Wq 1708.11(a) and (c) to reflect current practice for public notice and comment (provide opportunity to comment on preliminary decisions to allow any *significant* lowering of water quality) and post on web at two public places (instead of advertising in the newspaper, which is expensive).

With regards to EPA’s 2012 recommended bacteria criteria for Primary Contact Recreation (PCR), NH’s current bacteria criteria are very close and, in some cases, more stringent than EPA’s recommended criteria. NH’s criteria are a slightly less stringent in the manner in which the geometric mean criteria is calculated. State statute (RSA 485-A:8) requires the geometric mean to be based on samples collected over a 60 day period (versus a 30 day period recommended by EPA). Changes to NH’s bacteria standards would require a change in statute. DES intends to send a letter to EPA justifying continued use of NH’s current bacteria standards.

Gregg Comstock also presented the results of an analysis to estimate the number of facilities with NPDES permit limits for toxics that might be impacted by the proposed revisions to some of the toxic criteria in Table 1703.1. Results indicated that the effluent limits for 13 publically owned treatment works (POTWs) may be impacted by revisions to the ammonia criteria, followed by 10 POTWs for copper, seven for lead, two for cadmium and zinc and one for silver. Effluent limits for nine non-POTWs may be impacted by revisions to the copper criteria, followed by four for lead and zinc, three for chromium, two for ammonia, and one for trichloroethylene and tributyltin. In all, it is estimated that approximately 34 WWTFs with NPDES permit limits for toxics may be impacted by the proposed revisions. Ted Diers suggested reaching out to the NPDES wastewater treatment facility (WWTF) permittees to be sure they are aware of the proposed rule changes. He suggested a letter from either the WQSAC chair or DES. Alan Palmer suggested a separate meeting may be needed (depending on the how many plan to attend), and Ellen Weitzler suggested a webinar and/or the opportunity for people to call in. DES will follow up on these suggestions.

## **5) EPA Recreational Criteria Update on Beach Action Values (BAV): Options**

Sonya Carlson gave a powerpoint presentation on EPA’s proposed Beach Action Values (BAVs). To continue receiving Beach Grant Funds (approximately \$200,000 for NH), states must adopt EPA’s new Primary Contact Recreation (PCR) surface water quality standards for bacteria and EPA’s proposed BAVs by September 30, 2017 (unless acceptable justification is provided for not adopting the criteria or BAVs). More specifically, in 2015 states must agree to develop schedules for each, in 2016 they must begin implementing the two schedules, and by

2017 they must complete implementation. DES plans to send a letter to EPA justifying continued use of NH's current bacteria criteria for primary contact recreation (PCR), since they are very similar to what EPA is currently proposing. With regards to BAVs, they are not criteria that have to be included in surface water quality standards (i.e., Env-Wq 1700 and RSA 485-A:8) as they are values indicating when an advisory for a beach would need to be posted (versus when impairment of a use such as PCR occurs). Env-Wq 1105.14 currently includes bacteria criteria for posting bacteria advisories at designated beaches. If NH were to adopt EPA's recommended BAVs, it would have resulted in more beach advisory postings at the coastal (tidal) beaches (from 4 to 6) since EPA's BAVs for coastal beaches are more stringent than DES' current BAVs. This would require more resources to issue and remove advisories and to conduct additional testing. There is also the question of whether we would need to revise Env-Wq 1700 and RSA 485-A:8 or if only Env-Wq 1105.14 would need to be revised. DES's current BAVs for freshwater beaches are more stringent than EPA's proposed freshwater BAVs; consequently DES does not need to adopt EPA's proposed freshwater BAVs. DES plans to issue a letter that includes a schedule as well as reasons why we believe our current BAVs for coastal beaches are sufficiently protective.

#### **6) Other Business**

The next meeting is scheduled for January 8, 2014 at 1:30 PM.

#### **7) Adjourn**

The meeting was adjourned at 3:30 pm.